



1642

Atty. Dkt. No. 018733/1053

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: **Shui-on LEUNG**
Title: ***Multivalent Target Binding Protein***
Appl. No.: **09/911,610**
Filing Date: **July 25, 2001**
Examiner: **L. Helms**
Art Unit: **1642**

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RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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LO
7-19m

- Sir:

In response to the Office Action dated June 10, 2003, applicant hereby elects Group I, with traverse.

If additional fees are necessary to prevent abandonment of this application, the Commissioner is hereby authorized to charge Deposit Account No. 19-0741.

The Examiner has restricted the claims into the following Groups:

- I. Claims 1-20, drawn to a target binding protein, classified in class 530, subclass 387.3.
- II. Claims 21-32, drawn to nucleic acids, vectors, host cell, method of expression, classified in class 536, subclass 23.53.
- III. Claim 33, drawn to a method of eliciting an immune response with a target binding protein that binds a surface protein of a T cell or effector cell, classified in class 424, subclass 133.1.

- IV. Claim 34, drawn to a method of eliciting an immune response with a target binding protein that binds CD28 and CD3, classified in class 424, subclass 156.1.
- V. Claims 35-39, drawn to a method of treating or detecting a tumor by administration of a labeled target binding protein, classified in class 424, subclass 181.1, for example.
- VI. Claims 40-41, drawn to a method of treating or detecting a tumor by administration of a target binding protein and a cytotoxic agent, classified in class 424, subclass 130.1, for example.

Applicant provisionally elects with traverse Claims 1-20, drawn to a target binding protein, classified in class 530, subclass 387.3., for prosecution in the subject application. It is understood that the commensurate method of use and process of making claims will be rejoined under the Ochiai guidelines if the product is allowable.

Applicant, of course, reserves the right to file a divisional application covering the subject matter of the non-elected claims. **Applicant also reserves the right to appeal the restriction requirement to the Commissioner if the requirement is made final in a subsequent Office Action.**

Applicant traverses the restriction requirement because examining claims 1-41 presents no undue burden on the Examiner. According to MPEP § 803, "if a search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to independent and distinct inventions."


According to MPEP § 808.02, in order to insist on a restriction, the Examiner must demonstrate at least one of: a separate classification, a separate status in the art or a different field of search. The Examiner has demonstrated none of the above three requirements.

Conclusion

In view of the foregoing, applicants respectfully submit that the pending claims are in condition for allowance. An early notice to this effect is earnestly solicited. Should there be any questions concerning this application, Examiner Helms is invited to contact the undersigned at the number listed below.

Respectfully submitted,

By



Reg No 41514

Date July 10, 2003

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Should additional fees be necessary in connection with the filing of this paper, or if a petition for extension of time is required for timely acceptance of same, the Commissioner is hereby authorized to charge Deposit Account No. 19-0741 for any such fees; and applicant(s) hereby petition for any needed extension of time.